IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5414 OF 2004

Mohan Raghunath Falle ..Petitioner
Versus
Balu Subharao Patil & Ors. ..Respondents

Mr.N.R.Bubna for petitioner
None for respondents

CORAM : S.C.DHARMADHIKARI, J.
DATE : 12th January 2006.

P.C.

. This petition under Article 227 of the Constitution of India, challenges orders passed in interlocutory proceedings in a pending civil suit instituted by petitioner herein.

2. All that Mr.Bubna contends is that respondent may without prejudice to the rights and contentions of the petitioner in the pending

suit use the road/bund but should not disturb the crops of petitioner. In my view, the rejection by the appellate court of the appeal and the order of injunction during pendency of the suit would not prevent petitioner plaintiff from bringing materials at a subsequent stage and even now to satisfy the Court that his rights in the property in question viz., getting crops therefrom are being adversely affected and therefore the interim order be either modified or vacated. Needless to observe that upon such application being made, the Court below shall consider the same uninfluenced by the order passed earlier by it and lower appellate court. In this view of the matter it is not necessary to interfere in writ jurisdiction. Petition dismissed.

(S.C.DHARMADHIKARI, J)